

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appln No.:	09/698,310)	
Applicants:	William L. Reber)	Confirmation No. 6204
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Filed:	October 27, 2000)	
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For:	Method and System for)	This response was electronically filed using
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TC/A.U.:	3627)	
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Examiner:	James A. Kramer)	
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Docket No.:	83528)	
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Customer No.:	22242)	
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RESPONSE TO NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Office Action dated December 12, 2006, as entered in the above-captioned matter, the applicants' Appeal Brief was identified as defective for failing to provide an appropriate summary of claimed subject matter. The Examiner in particular made the following statement:

The summary of claimed subject matter fails to identify and map each independent claim to the specification by page and line number and to the drawings, if any.

The applicant has carefully reviewed the summary section and, with all due respect, finds the present text to be fully compliant with the requirements of 37 C.F.R. §41.37. Particular reference was made by the Examiner with respect to the requirements of 35 C.F.R. §41.37(c)(1)(v). That section first requires:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the

specification by page and line number, and to the drawings, if any,
by reference characters.

This is exactly what the present summary section in the Appeal Brief provides. The subject matter of the independent claims is presented, in prose format, including references to the specification by page and line number (via corresponding footnotes) as well as reference characters. As to the latter requirement, the summary section even includes presentations of the figures that are referred to in this way.

It should be noted that this portion of the C.F.R. does **not** require that each *independent claim* be mapped to the specification by page and line number and to the drawings as averred by the Examiner. It only requires that the *subject matter* as is defined in the independent claims refer to the specification and drawings. Admittedly, mapping the language of the independent claims themselves to the specification might be one way of meeting this requirement, but it hardly constitutes the only way that such a requirement can be met. The present summary section in fact provides “a concise explanation of the subject matter defined in each of the independent claims involved in the appeal” with references to the specification by page and line number as well as to the drawings.

The C.F.R. requires nothing further and certainly contains no language that limits the applicant to use of a so-called “map.” The Examiner’s continued demands in this regard are therefore clearly seen to be outside the mandates of the applicable rules and regulations and without any support or authority.

This portion of the Code of Federal Regulations then provides as follows:

For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. §112, 6th paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

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Notice of Non-Compliant Appeal Brief dated December 12, 2006

Response to Non-Compliant Appeal Brief dated January 4, 2007

There are no independent or dependent claims being presented for argument that include a means plus function or step plus function recitation. Therefore, this section of 35 C.F.R. §41.37(c)(1)(v) is not applicable.

This requirement, of course, can be viewed as requiring a mapping of the contents of the affected claim to the specification. This mapping requirement, however, is *only* triggered by, and to be applied with respect to, claims having means plus function (or step plus function) recitations. As is already noted above, the appealed claims *have no such recitations*. This portion of the C.F.R. is therefore utterly inapplicable to the appealed claims and hence is not applicable to the present summary section of the appeal brief.

There are no other specific requirements set forth in the Code of Federal Regulations in this regard. The applicant therefore respectfully submits that the summary of claimed subject matter section of the Appeal Brief is fully compliant with the requirements of the Code of Federal Regulations and is in suitable condition to support consideration by the Board.

Respectfully submitted,

By: 

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Date: January 4, 2007

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